

ENTERED

September 23, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

KAFI, INC.

Plaintiff.

VS.

SAND CANYON CORPORATION
F/K/A OPTION ONE MORTGAGE
CORPORATION, *et al.*

Defendants.

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No. 3:20-cv-00354

**ORDER ADOPTING MAGISTRATE JUDGE'S
MEMORANDUM AND RECOMMENDATION**

On February 24, 2021, all dispositive and non-dispositive pretrial matters in this case were referred to United States Magistrate Judge Andrew M. Edison under 28 U.S.C. § 636(b)(1)(A) and (B). *See* Dkt. 38. Judge Edison filed a memorandum and recommendation on August 3, 2022, recommending that the court grant in part and deny in part the defendants' joint motion to dismiss claims brought against them by Kafi, Inc. ("Kafi") for failure to state a claim. *See* Dkt. 72. Specifically, Judge Edison recommended the court dismiss: (1) Kafi's forgery claim against all defendants; (2) Kafi's claim for exemplary damages; and (3) Kafi's claims against Nationwide Title Clearing ("NTC") and Sand Canyon Corporation f/k/a Option One Mortgage Corporation ("Sand Canyon"). In all other respects, Judge Edison recommended the court deny the relief sought by the defendants in their joint motion to dismiss without prejudice to re-urging at summary judgment.


On August 17, 2022, the defendants timely filed their objections to the memorandum and recommendation. *See* Dkt. 73. In accordance with 28 U.S.C.

§ 636(b)(1)(C), this court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” 28 U.S.C. § 636(b)(1)(C). After conducting this de novo review, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

The court has carefully considered the objections, the memorandum and recommendation, the pleadings, and the record. The court accepts Judge Edison’s memorandum and recommendation and adopts it as the opinion of the court. It is therefore ordered that:

- (1) Judge Edison’s memorandum and recommendation (Dkt. 72) is approved and adopted in its entirety as the holding of the court;
- (2) The defendants’ joint motion to dismiss (Dkt. 66) is granted in part and denied in part.
- (3) Kafi’s forgery claim against all defendants is dismissed with prejudice;
- (4) Kafi’s claim for exemplary damages is dismissed is dismissed with prejudice;
- (5) Kafi’s claims against NTC and Sand Canyon are dismissed with prejudice, and those parties are dismissed from the case; and
- (6) All other relief sought by the defendants in their joint motion to dismiss is denied without prejudice to re-urging at summary judgment.

SIGNED on Galveston Island this 23rd day of September 2022.



JEFFREY VINCENT BROWN
UNITED STATES DISTRICT JUDGE

